10. DECLARATION—*Personal injuries to traveller at public crossing—General averments of negligence—Proof.* In an action against a railroad company to recover damages for a personal injury alleged to have been inflicted at a public crossing in consequence of the negligent management, conduct, and running of defendant's locomotives, it is not necessary in the declaration to aver all the facts and circumstances constituting the negligence. Under the allegations stated, the plaintiff had the right to prove any fact or circumstance tending to show that the defendant was negligent as to travellers in the running of its locomotives at that particular time and place, such as that no whistle was blown, bell rung, or lookout kept, and the absence of a gateman, or safety gates, and the like.

11. INSTRUCTIONS—*Hypothetical case—Defining duty of plaintiff or defendant only.* Where the object of an instruction is merely to define the duty of the defendant arising out of a supposed state of facts, and it does not purport to contain a complete hypothesis on which a plaintiff suing for injuries caused by alleged negligence is entitled to recover, it is not necessary to refer to the duty or supposed negligence of the plaintiff. But if the defendant asks an instruction which correctly propounds the law as to the duty of the plaintiff, though it makes no mention of defendant's duty, it should be given. The two together constitute the law of the case on that point.

12. RAILROADS—*Public crossings—Obstructed view—Care required of traveler and company respectively.* If the view of a train approaching a railroad crossing is obstructed by cars left standing on a side-track, it is the duty of the railroad company, in the running of its trains, and also of the traveller in approaching the crossing, to use a higher degree of care than if no such obstruction existed.

13. ASSIGNMENTS OF ERROR—*Grounds of objection not stated.* This court will not consider assignments of error for which no grounds of objection are stated either in the petition for the writ of error, or in the brief of counsel.

WHITE v. NEWPORT NEWS SHIPBUILDING & DRY DOCK CO.—Decided at Richmond, December 2, 1897.—*Harrison*, J. Absent, *Cardwell*, J:

1. MASTER AND SERVANT—*Contributory negligence—Use of appliances known to be defective—Case at bar.* Generally, any negligence of the employee amounting to the want of ordinary care will defeat an action against the master, and when a servant wilfully encounters a danger known to him, or performs a service with an instrumentality so obviously dangerous that a man of common prudence would refuse to use it, the master is not liable for the resulting damage. In the case at bar the injury resulted from the use of unsuitable appliances when suitable appliances furnished by the master were within easy reach, and the servant occupied a place of danger knowing that unsuitable appliance were being used, without giving information thereof to the foreman, and without remonstrance.

2. MASTER AND SERVANT—*Contributory negligence—Unsuitable appliances—Improper adjustments.* A servant who knows that unsuitable appliances are being used to do the master's work, or that the appliances have not been properly adjusted, and also knows that his foreman is ignorant of the fact, is guilty of inexcusable negligence to proceed with the work without informing his foreman thereof, and cannot recover of the master for personal injuries resulting from the use of such appliances, or their improper adjustment.